

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83792**

This is to certify that: **JOHN & DEBORAH BENDER TRUST**
29551 MERCED AVE
SHAFTER, CA 93263-9747

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
35-11213	WR/DECREED	6/1/1980	0.300 cfs	N/A	24.6	588.0	GROUND WATER
35-2420	WR/DECREED	4/22/1955	5.450 cfs	N/A	318.0	588.0	GROUND WATER
35-7768	WR/DECREED	1/24/1978	1.630 cfs	N/A	354.0	588.0	GROUND WATER
35-8926	WR/LICENSE	12/17/1990	5.190 cfs	N/A	268.0	588.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
35-11213	NO	NO	YES	NO	NO	NO
35-2420	NO	NO	YES	NO	NO	NO
35-7768	NO	NO	YES	NO	NO	NO
35-8926	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
35-11213	35-11213	0.300 cfs	N/A	24.6	588.0	N/A	N/A	N/A	N/A	N/A
35-2420	35-2420	5.450 cfs	N/A	318.0	588.0	N/A	N/A	N/A	N/A	N/A
35-7768	35-7768	1.630 cfs	N/A	354.0	588.0	N/A	N/A	N/A	N/A	N/A
35-8926	35-8926	5.190 cfs	N/A	268.0	588.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		7.150 cfs	2352.0 af	588.0	588.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 14th day of January, 2020.


Regional Manager

Transfer No. 83792

Support Data
In File # 35-2420

WATER RIGHT NO. 35-8926
As Modified by Transfer No. 83792

In accordance with the approval of Transfer No. 83792, Water Right No. 35-8926 is now described as follows:

Right Holder: JOHN & DEBORAH BENDER TRUST
 29551 MERCED AVE
 SHAFER, CA 93263-9747

Priority Date: 12/17/1990

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From
 04/01

To
 to 10/31

Diversion Rate
 5.190 cfs
 5.190 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENW Sec 30 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	19												23.0			27.0	0.5	50.5
01S	33E	30		1.5	28.0	14.0	36.0	24.0	26.0	40.0	40.0	26.0	13.0	36.0	37.0	40.0	40.0	29.0	430.5
01S	33E	31	40.0	35.0	4.0	28.0		L 1	L 2			L 3	L 4						107.0

Right Acre Limit: 268.0

POU Total Acres: 588.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 268 acres within the authorized place of use in a single irrigation season.
2. Rights 35-2420, 35-7768 and 35-8926 when combined shall not exceed the irrigation of 563.4 acres.
3. Rights 35-2420, 35-7768, 35-8926 and 35-11213 when combined shall not exceed a total diversion rate of 7.15 cfs, a total annual maximum diversion volume of 2352 af at the field headgate, and the irrigation of 588 acres.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.

Transfer No. 83792

WATER RIGHT NO. 35-8926
As Modified by Transfer No. 83792

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 83792, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (10/08/1991) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 35-11213
As Modified by Transfer No. 83792

In accordance with the approval of Transfer No. 83792, Water Right No. 35-11213 is now described as follows:

Right Holder: JOHN & DEBORAH BENDER TRUST
 29551 MERCED AVE
 SHAFTER, CA 93263-9747

Priority Date: 6/1/1980

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
 0.300 cfs
 0.300 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSNW Sec 30 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	19												23.0			27.0	0.5	50.5
01S	33E	30		1.5	28.0	14.0	36.0	24.0	26.0	40.0	40.0	26.0	13.0	36.0	37.0	40.0	40.0	29.0	430.5
								L 1	L 2				L 3	L 4					
01S	33E	31	40.0	35.0	4.0	28.0													107.0

Right Acre Limit: 24.6

POU Total Acres: 588.0

CONDITIONS OF APPROVAL

1. Rights 35-2420, 35-7768 and 35-11213 when combined shall not exceed a total diversion rate of 7.08 cfs.
2. Rights 35-2420, 35-7768, 35-8926 and 35-11213 when combined shall not exceed a total diversion rate of 7.15 cfs, a total annual maximum diversion volume of 2352 af at the field headgate, and the irrigation of 588 acres.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.

WATER RIGHT NO. 35-11213

As Modified by Transfer No. 83792

CONDITIONS OF APPROVAL

4. Prior to the diversion and use of water under Transfer approval 83792, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right is based upon an enlargement of Right Nos. 35-2420 and 35-7768 pursuant to Section 42-1426, Idaho Code.
7. This right is for an enlargement of 24.6 acres within the place of use described for this right.
8. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 35-7768**As Modified by Transfer No. 83792**

In accordance with the approval of Transfer No. 83792, Water Right No. 35-7768 is now described as follows:

Right Holder: JOHN & DEBORAH BENDER TRUST
29551 MERCED AVE
SHAFTER, CA 93263-9747

Priority Date: 1/24/1978

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
1.630 cfs
1.630 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENW Sec 30 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	19												23.0			27.0	0.5	50.5
01S	33E	30		1.5	28.0	14.0	36.0	24.0	26.0	40.0	40.0	26.0	13.0	36.0	37.0	40.0	40.0	29.0	430.5
								L 1	L 2			L 3	L 4						
01S	33E	31	40.0	35.0	4.0	28.0													107.0

Right Acre Limit: 354.0

POU Total Acres: 588.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 354 acres within the authorized place of use in a single irrigation season.
2. Rights 35-2420, 35-7768 and 35-11213 when combined shall not exceed a total diversion rate of 7.08 cfs.
3. Rights 35-2420, 35-7768 and 35-8926 when combined shall not exceed the irrigation of 563.4 acres.
4. Rights 35-2420, 35-7768, 35-8926 and 35-11213 when combined shall not exceed a total diversion rate of 7.15 cfs, a total annual maximum diversion volume of 2352 af at the field headgate, and the irrigation of 588 acres.

Transfer No. 83792

WATER RIGHT NO. 35-7768
As Modified by Transfer No. 83792

CONDITIONS OF APPROVAL

5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.
6. Prior to the diversion and use of water under Transfer approval 83792, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
7. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
8. Right No. 35-11213 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 35-2420
As Modified by Transfer No. 83792

In accordance with the approval of Transfer No. 83792, Water Right No. 35-2420 is now described as follows:

Right Holder: JOHN & DEBORAH BENDER TRUST
 29551 MERCED AVE
 SHAFER, CA 93263-9747

Priority Date: 4/22/1955

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From 04/01 **To** 11/01

Diversion Rate
 5.450 cfs
 5.450 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENW Sec 30 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	19												23.0			27.0	0.5	50.5
01S	33E	30		1.5	28.0	14.0	36.0	24.0	26.0	40.0	40.0	26.0	13.0	36.0	37.0	40.0	40.0	29.0	430.5
01S	33E	31	40.0	35.0	4.0	28.0		L 1	L 2			L 3	L 4						107.0

Right Acre Limit: 318.0

POU Total Acres: 588.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 318 acres within the authorized place of use in a single irrigation season.
2. Rights 35-2420, 35-7768 and 35-8926 when combined shall not exceed the irrigation of 563.4 acres.
3. Rights 35-2420, 35-7768 and 35-11213 when combined shall not exceed a total diversion rate of 7.08 cfs.
4. Rights 35-2420, 35-7768, 35-8926 and 35-11213 when combined shall not exceed a total diversion rate of 7.15 cfs, a total annual maximum diversion volume of 2352 af at the field headgate, and the irrigation of 588 acres.

Transfer No. 83792

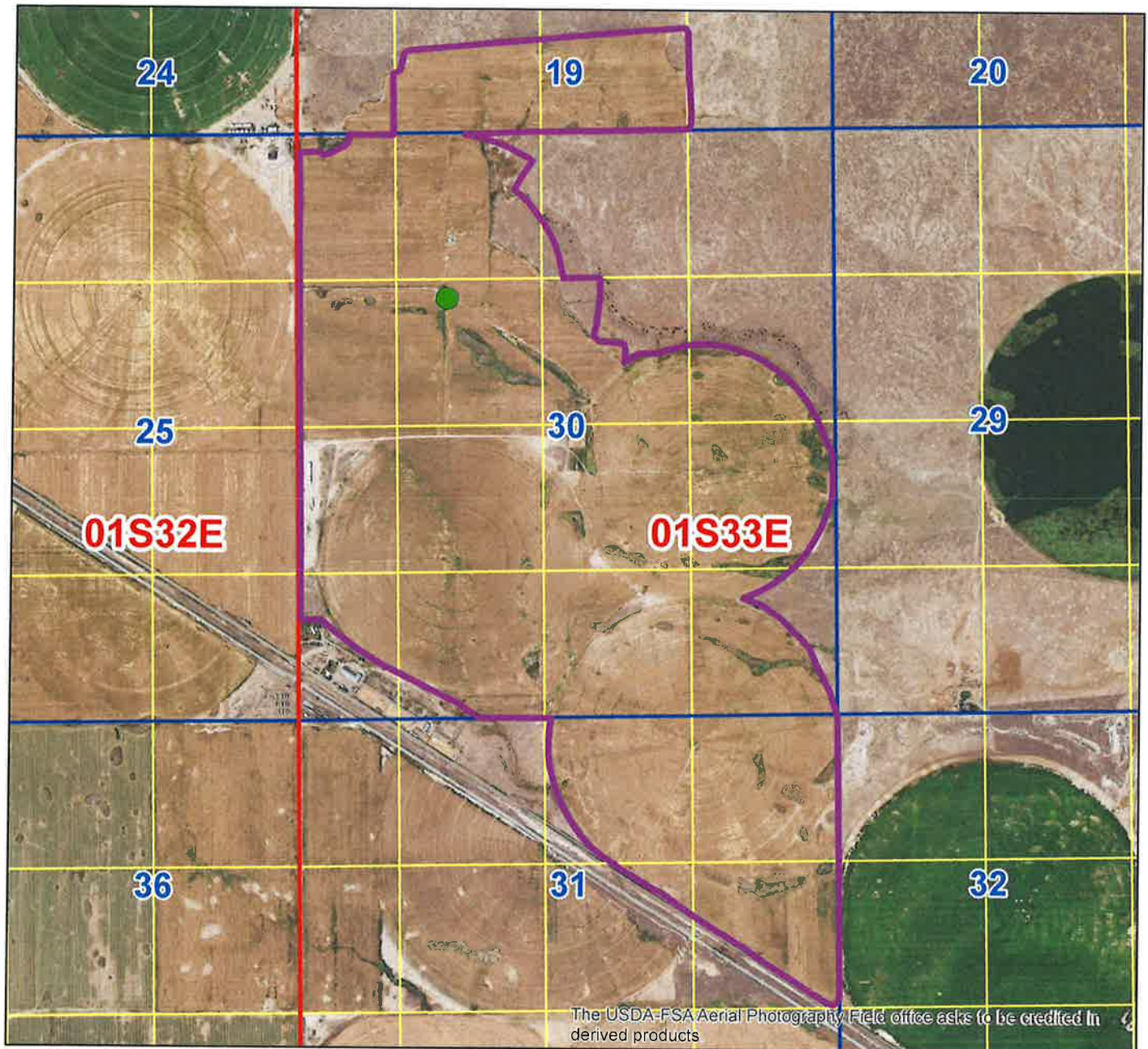
WATER RIGHT NO. 35-2420
As Modified by Transfer No. 83792

CONDITIONS OF APPROVAL

5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.
6. Prior to the diversion and use of water under Transfer approval 83792, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
7. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
8. Right No. 35-11213 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Attachment to Transfer Approval 83792

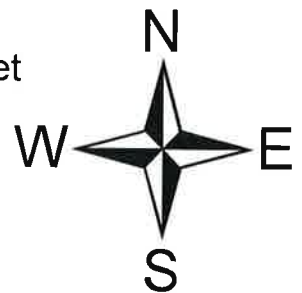
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- Water Right POD
- Water Right POU
- Township/Range
- Sections
- QQ

0 1,000 2,000 4,000 Feet



Date: 1/14/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 14, 2020

JOHN & DEBORAH BENDER TRUST
29551 MERCED AVE
SHAFTER CA 93263-9747

Re: Transfer No: 83792
Water Right No(s): 35-2420, 35-7768, 35-8926, 35-11213

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,

A handwritten signature in black ink, appearing to read 'CA' followed by a stylized flourish.

Christina Henman
Administrative Assistant

Enclosure

CC:

ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS ID 83405-0130

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was held)

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or **take exceptions** to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, request for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

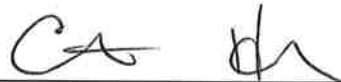
I hereby certify that on January 14, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 83792

Water Right No(s): 35-2420, 35-7768, 35-8926, 35-11213

**JOHN & DEBORAH BENDER TRUST
29551 MERCED AVE
SHAFTER CA 93263-9747**

**ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS ID 83405-0130**

A handwritten signature in black ink, appearing to read 'CH' followed by a stylized flourish, positioned above a horizontal line.

**Christina Henman
Administrative Assistant**